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EMPLOYEE BULLETIN

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17 September 1975

SUSPENSION OF PROVISION OF CLASSIFIED MATERIALS
TO THE HOUSE SELECT COMMITTEE ON INTELLIGENCE

Attached is a fact sheet on the sequence of events leading to the President's decision on Friday, 12 September 1975, to suspend provision of classified materials to the House Select Committee on Intelligence. The fact sheet has been prepared specifically toward placing in proper context the issue between the Executive Branch of government and the House Select Committee on Intelligence.

Attachment

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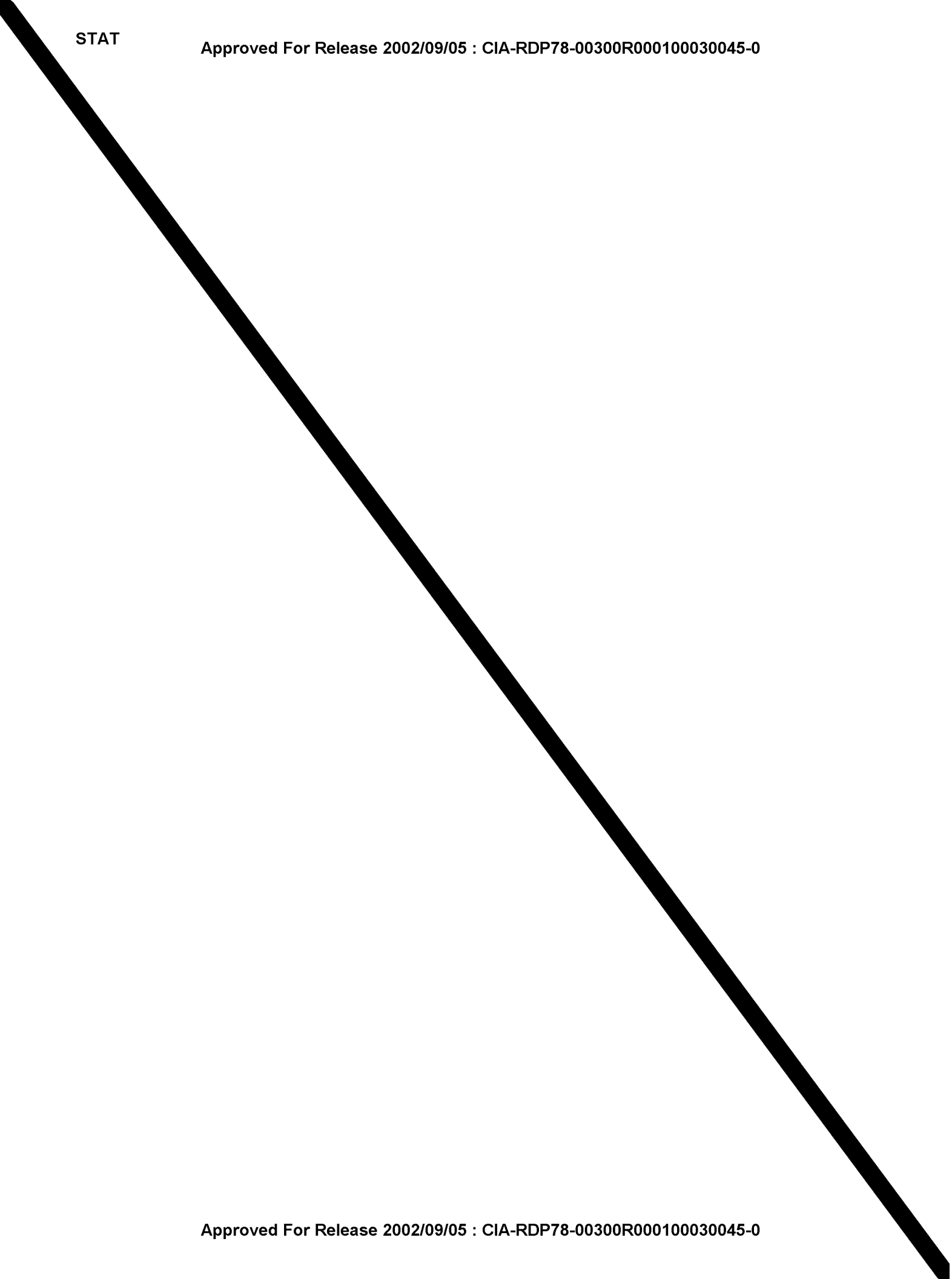

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Fact Sheet on Sequence of Events Leading to the President's Decision on 12 September 1975 to Suspend Provision of Classified Materials to the House Select Committee on Intelligence

At an open hearing of the House Select Committee on Intelligence (HSC) on September 12, 1975, Assistant Attorney General Rex E. Lee, speaking on behalf of the entire Executive Branch, read a statement to the Chairman of the HSC, Representative Otis Pike, which contained the following statement:

> "...the President's responsibilities for the national security and foreign relations of the United States leave him no alternative but to direct all departments and agencies of the Executive Branch respectfully to decline to provide the Select Committee with classified materials, including testimony and interviews which disclose such materials, until the Committee satisfactorily alters its position."

As background, it should be noted that from the moment of the establishment of the HSC, as well as the Senate Select Committee on Intelligence, guidelines for the transmittal, processing, utilization and storage of classified materials provided the HSC by CIA and other intelligence agencies have been in effect. Director Colby included these guidelines in a letter dated

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3 September 1975 to Chairman Pike. The pertinent portion of this letter reads as follows:

> "With respect to the documents to be made available to the Committee, there are certain sensitive materials that must be protected not only from exposure but even the risk of exposure. Included in this sensitive category are:
>
> --identities of agents and sources;
>
> --identities of persons involved in Agency operations who would be subject to personal, physical danger, to extreme harassment or to economic or other reprisals if their names were to be publicly identified;
>
> --material provided confidentially by cooperating foreign intelligence services;
>
> --details that would reveal the nature of sensitive intelligence methods and techniques of collection, by technical and human means;
>
> --identities of cooperating Americans and American organizations and contacts to whom we have a confidential relationship.
>
> In making such deletions, our staff has been instructed to describe the deletion, e.g., as a CIA officer or a source, in order to place the material in context. Where your staff believes that a particular name or detail is critical to their inquiry, this then should be brought to the attention of our staff and the matter can be negotiated. I believe this procedure is consistent with your statement to me that the Committee is not interested in our sources and methods, or in the names of agents as such."

Other important reference points are House Resolution 591, July 11, 1975, which established the HSC and

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Rules and Security Regulations of the HSC itself. House Resolution 591, Section 6.(a) states:

> "The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the select committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government." (Emphasis added.)

Rule 7 (Protection of Papers and Documents) of the Rules and Security Regulations of the HSC states:

> "7.3 Until such time as the committee has submitted its final report to the House, classified or other sensitive information in the committee records and files shall not be made available or disclosed to other than the committee membership and the committee staff, except as may be otherwise determined by the committee." (Emphasis added.)

The sequence of events that brought this issue to a head is as follows:

a. Late on Monday, 8 September, the CIA and other members of the intelligence community were advised by the HSC staff that the HSC would hold

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open sessions on the intelligence postmortems concerning the Arab-Israeli war of 1973 and the Greek/Cyprus/Turkish events of July 1974 on Thursday, September 11, and Friday, September 12, respectively. This countermanded previous advice that these hearings would deal with a different subject. The Committee had requested and received on 18 August, the key document, and the one from which the HSC released excerpts: a postmortem of the Arab-Israeli 1973 war conducted by the intelligence community itself.

b. On Tuesday, 9 September, a letter was received by CIA asking for other CIA documents pertaining to the Middle East war and Cyprus. This letter was responded to by CIA on that same day and a substantial number of documents were delivered to the HSC that evening. Additional materials were promised for the following day, Wednesday, 10 September.

c. A subpoena from the HSC Chairman was delivered to CIA during the afternoon of Wednesday, 10 September, requesting additional material, some of it duplicative of the materials already

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intended for delivery that day to the HSC. This material and the documents requested in the subpoena were hurriedly assembled and delivered to the HSC staff late that night.

d. On Wednesday, 10 September, the HSC Staff Director urgently requested that six pages containing the principal conclusions and recommendations of the Middle East postmortem be declassified so that they could be read into the record during the open hearing the following day. The Director of Central Intelligence acceded to this request with the understanding on the part of the HSC Staff Director that certain deletions would be made to protect sources and methods. Nothing was said or implied by the HSC Staff Director at that time or by the Chairman of the HSC in a telephone conversation with Director Colby late Wednesday afternoon that indicated an intention by the HSC to vote to declassify and publish any material over the Director's objections.

e. Prior to the opening of the hearing on the morning of Thursday, 11 September, the HSC Staff Director asked that the CIA area specialist read the declassified portion of approximately

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six pages of the Middle East postmortem into the record. When this was completed, Chairman Pike insisted on the reinstatement of five deleted passages and indicated that the Committee would vote in Executive Session on their declassification.

f. Director Colby was reached on the phone, and, to accommodate the Chairman, he reluctantly agreed to reinstate these passages subject to the continued deletion of four short phrases which he regarded as being of continuing high sensitivity because of the impact abroad should these items be published. During the ensuing executive session, the Chairman rejected repeated requests by the Director's Special Counsel to postpone the Committee vote until experts in the field of communications intelligence could be consulted or could appear to testify before the Committee. In the votes that followed, the Committee did agree to the deletion of three of the four phrases, but insisted on retaining the one that all intelligence community representatives at the hearing stressed was the most important and most sensitive of the

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four. The passage which contained the phrase reads as follows:

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[redacted]

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a press conference at which he described what had transpired.

g. On the following morning, Friday, 12 September, after Assistant Attorney General Lee had read the Presidential message to the HSC, the Chairman, still in open hearing, had the Staff Director read into the public record the five passages referred to above, including the disputed phrase which the HSC had voted to declassify.

In Summary:

a. This incident does not question Congress' access to classified material, large quantities of which were provided to the Committee.

b. It does question the unilateral action of one committee to release such material over the objections of the Executive representatives present, without hearing the views of those technically qualified to describe the significance of the material and without due consultation with responsible senior officials of the Executive.

c. If the Committee's position were to remain unchanged, large amounts of sensitive intelligence and other types of material would be

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subject to release without notice, which would require a responsible Executive to restrict the provision of such information to the Committee.

d. A resolution of the problem can be obtained by a return to the previous understanding that the classification of material provided will be respected pending full consultation and negotiation in good faith with respect to the form of its possible public release.

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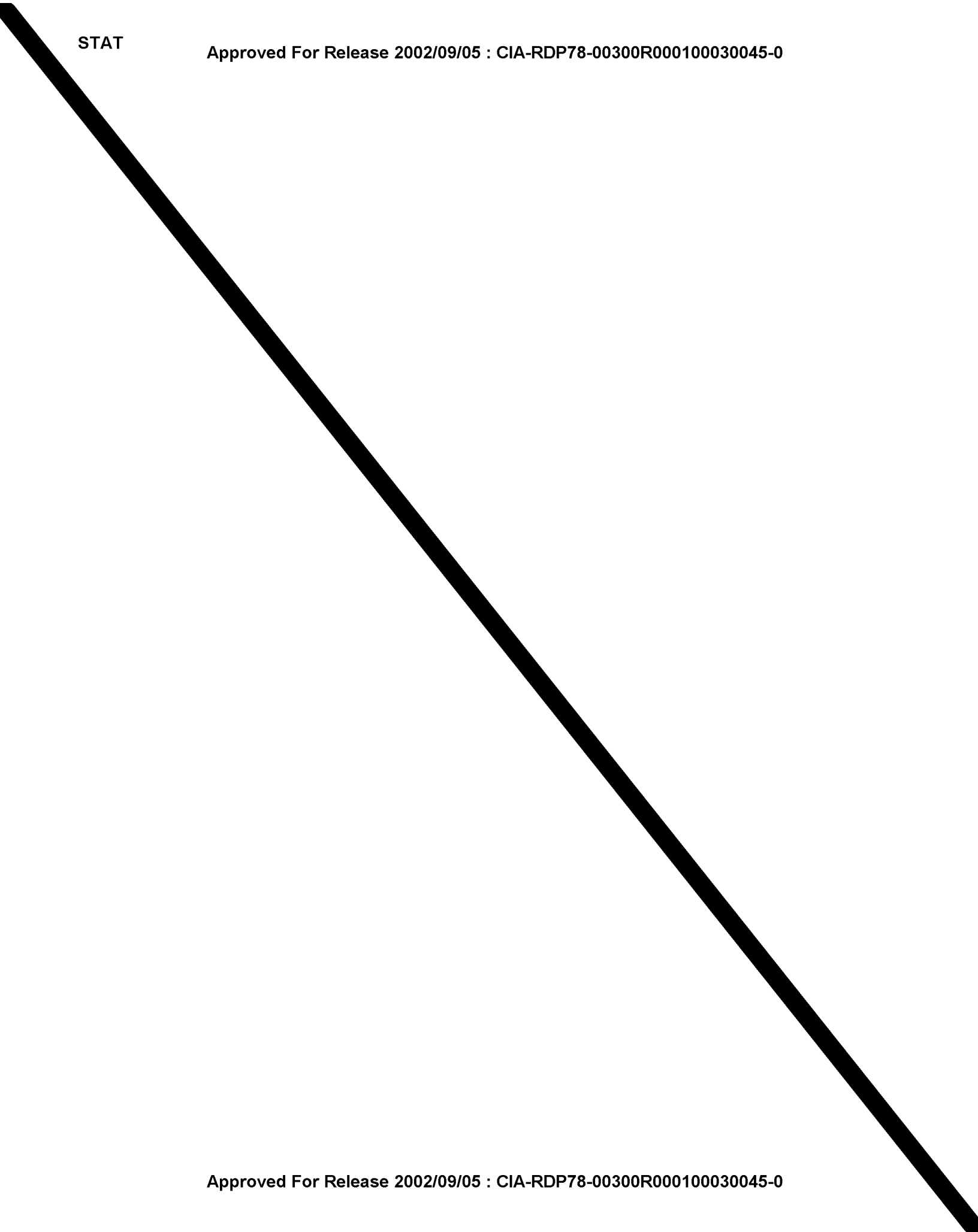

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